

By the Committees on Community Affairs; and Environmental
Preservation and Conservation

578-03998-13

20131808c1

1 A bill to be entitled
2 An act relating to numeric nutrient criteria; amending
3 s. 403.061, F.S.; authorizing the Department of
4 Environmental Protection to implement specified
5 provisions to control nutrient load in state waters;
6 authorizing the department to implement specified
7 nutrient standards; providing for deletion of a
8 specified rule from the Florida Administrative Code;
9 providing that specified nutrient criteria rules are
10 subject to specified provisions of the Florida
11 Administrative Code; exempting such nutrient criteria
12 rules from ratification by Legislature under s.
13 120.541(3), F.S.; directing the department to
14 establish numeric interpretations of the narrative
15 nutrient criterion for certain estuaries and waters,
16 subject to specified provisions and standards;
17 directing the department to submit a specified report
18 to the Governor and Legislature; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (43) is added to section 403.061,
24 Florida Statutes, to read:

25 403.061 Department; powers and duties.—The department shall
26 have the power and the duty to control and prohibit pollution of
27 air and water in accordance with the law and rules adopted and
28 promulgated by it and, for this purpose, to:

29 (43) (a) Implement ss. 403.067 and 403.088 in flowing waters

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30 consistent with the attainment and maintenance of:

31 1. The narrative criterion for nutrients and any in-stream
32 numeric interpretation of the narrative water quality criterion
33 for nutrients adopted by the department in streams, canals, and
34 other conveyances; and

35 2. Nutrient water quality standards applicable to
36 downstream waters.

37 (b) The loading of nutrients to downstream waters from a
38 stream, canal, or other conveyance shall be limited to provide
39 for the attainment and maintenance of nutrient water quality
40 standards in the downstream waters.

41 1. If the downstream water does not have a total maximum
42 daily load adopted under s. 403.067 and has not been verified as
43 impaired by nutrient loadings, then the department shall
44 implement its authority in a manner that prevents impairment of
45 the downstream water due to loadings from the upstream water.

46 2. If the downstream water does not have a total maximum
47 daily load adopted under s. 403.067 but has been verified as
48 impaired by nutrient loadings, then the department shall adopt a
49 total maximum daily load under s. 403.067.

50 3. If the downstream water has a total maximum daily load
51 adopted under s. 403.067 that interprets the narrative water
52 quality criterion for nutrients, then allocations shall be set
53 for upstream water bodies in accordance with s. 403.067(6), and
54 if applicable, the basin management action plan established
55 under s. 403.067(7).

56 (c) Compliance with an allocation calculated under s.
57 403.067(6) or, if applicable, the basin management action plan
58 established under s. 403.067(7) for the downstream water shall

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59 constitute reasonable assurance that a discharge does not cause
60 or contribute to the violation of the downstream nutrient water
61 quality standards.

62
63 The department shall implement such programs in conjunction with
64 its other powers and duties and shall place special emphasis on
65 reducing and eliminating contamination that presents a threat to
66 humans, animals or plants, or to the environment.

67 Section 2. The Department of Environmental Protection may
68 implement its adopted nutrient standards for streams, springs,
69 lakes, and estuaries consistent with the document entitled
70 "Implementation of Florida's Numeric Nutrient Standards," which
71 was proposed for adoption by the department in the Florida
72 Administrative Register, Vol. 39, No. 54, pages 1397-1398. This
73 document shall be subject to the provisions of rule 62-
74 302.531(9), Florida Administrative Code, and exempt from
75 ratification under s. 120.541(3), Florida Statutes.

76 Section 3. When the United States Environmental Protection
77 Agency withdraws all federal numeric nutrient criteria rules in
78 the State of Florida, and otherwise ceases all federal nutrient
79 rulemaking in the State of Florida, then rule 62-302.531(9),
80 Florida Administrative Code, shall stand repealed. Thereafter,
81 upon certification by the Secretary of Environmental Protection
82 filed with the Department of State, the rule shall be deleted
83 from the Florida Administrative Code.

84 Section 4. Any nutrient criteria rules for estuaries
85 adopted by the Department of Environmental Protection in 2013
86 are subject to the provisions of rule 62-302.531(9), Florida
87 Administrative Code, and exempt from ratification under s.

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88 120.541(3), Florida Statutes.

89 Section 5. The Department of Environmental Protection shall
90 establish by rule or final order the estuary specific numeric
91 interpretations of the narrative nutrient criterion for total
92 nitrogen, total phosphorus, and chlorophyll a for any estuaries
93 not already subject to the department's numeric nutrient
94 criteria, and establish chlorophyll a interpretations of the
95 narrative nutrient criterion for non-estuarine coastal waters by
96 December 1, 2014, subject to the provisions of chapter 120,
97 Florida Statutes. The water quality standard pursuant to s.
98 403.061(11), Florida Statutes, for total nitrogen, total
99 phosphorus, and chlorophyll a in estuaries, and chlorophyll a in
100 non-estuarine coastal waters, shall be the current conditions of
101 those unimpaired waters, accounting for climactic and hydrologic
102 cycles, until such time as a numeric interpretation of the
103 narrative water quality criterion for nutrients is established
104 by rule or final order. The Department of Environmental
105 Protection shall submit a report to the Governor, the President
106 of the Senate, and the Speaker of the House of Representatives
107 by August 1, 2013, conveying the status of establishing numeric
108 interpretations of the narrative nutrient criterion pursuant to
109 this section and including the department's calculation of the
110 numeric values that represent the current conditions of those
111 unimpaired waters as stated in this section for those estuaries
112 and non-estuarine coastal waters without numeric interpretations
113 of the narrative nutrient criterion established by rule or final
114 order as of the date of the report.

115 Section 6. This act shall take effect upon becoming a law.